

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

)
NICOLE COLLYMORE and FAISAL MALIK, on)
behalf of themselves and all others similarly)
situated,,,))
Plaintiffs,) Case No. 2:16-cv-06584-LDW-SIL
v.))
NORTH SHORE UNIVERSITY HOSPITAL,))
Defendant.))

)

)
STIPULATION AND ORDER TO
DISMISS COUNT TWO OF COMPLAINT
AND WITHDRAW LETTER REQUEST
FOR PRE-MOTION CONFERENCE

WHEREAS, on November 28, 2016, Plaintiffs Nicole Collymore and Faisal Malik (“Plaintiffs”) filed a Complaint for Violation of Fair Labor Standards Act (“Count One”) and New York Labor Law (“Count Two”);

WHEREAS, on January 23, 2016, Defendant North Shore University Hospital (“NSUH”) filed a letter to request a pre-motion conference on NSUH’s proposed motion to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6), thereby tolling its time to answer pursuant to Rule 12 of the Federal Rules of Civil Procedure; and

WHEREAS by and between undersigned counsel, Plaintiffs intend to withdraw Count Two of the Complaint in exchange for NSUH’s withdrawal of its request for a pre-motion conference on its proposed motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6);

NOW IT IS HEREBY STIPULATED AND AGREED by the parties, by and between undersigned counsel, that Count Two of the Complaint is voluntarily dismissed; NSUH’s letter request for a pre-motion conference on its proposed motion to dismiss the Complaint pursuant to

Fed. R. Civ. P. 12(b)(6) is hereby withdrawn; and NSUH's time to serve an answer to the Complaint is extended until twenty (20) days from entry of this Stipulation and [Proposed] Order as so ordered. Neither party shall be deemed to have waived or conceded any arguments that were made (or could have been made) in support of, or in opposition to, the proposed motion to dismiss.

Dated: February 6, 2017

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SO ORDERED:

Hon. Leonard D. Wexler

Dated: February , 2017